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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/977,083	10/12/2001	Jeffrey A. Dahl	M297.12-0234	1917

7590 03/02/2004

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EXAMINER

JOYCE, HAROLD

ART UNIT	PAPER NUMBER
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3749

DATE MAILED: 03/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 09/977,083	Applicant(s) DAHL ET AL.	
	Examiner Harold Joyce	Art Unit 3749	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on Dec 22, 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-3, 7-12 and 17-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3, 7-12 and 17-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### DETAILED ACTION

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-3, 10-12 and 18-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Marques et al. Marques et al. states at column 3, lines 4-14 :

The crossmember has an inwardly facing surface 16 within which is formed an opening 17. The frame work of the cab further includes a seat frame 18 which supports a seat 19. The seat frame is spaced internally of crossmember 15 and has a rearwardly facing surface 29 which has an opening 21 positioned therein to line up with opening 17 formed in crossmember 15.

An air conditioning unit 22 is housed within the seat frame 18 which serves to control the environment of cab 11.

and further in lines 21-28:

The blowers draw air from an ambient air source A through inlets 14 of tubular posts 13 where I flows down the interior of the post and into crossmember 15. From within the crossmember the air exits through opening 16 and is directed through opening 21 in seat frame 18 whereupon it passes through the air conditioning components from treatment and dispersement.

The claimed fresh air vent corresponds to the opening 21.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and

the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 7-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Marques et al. in view of Wilson et al. Marques et al. discloses the claimed invention except for the actuable control inputs on the side of the modular system generally facing the seat and a dash with ducting therein. Wilson et al. teaches that it is known to provide controls on the wall of the air conditioning system generally facing the seat and a dash with ducting therein as set forth at column 3, lines 30-32 and column 2, lines 43-46. It would have been obvious to one having ordinary skill in the art at the time the invention was made to locate the controls of Marques et al. on a wall which faces the seat and a dash with the air ducts therein, as taught by Wilson et al. in order to provide ease in excess thereto and hide the ductworks. Also, Marques et al. discloses the claimed invention except for the inlet vents being on opposite side of the modular ventilation system. Wilson et al. teaches that it is known to provide inlet vents on opposite sides of an air conditioner case assembly as set forth at column 2, lines 47-50. It would have been obvious to one having ordinary skill in the art at the time the invention was made to locate the inlet vents of Marques et al. to opposite sides of the housing, as taught by Wilson et al. in order to uniformly remove air from the vehicle interior.

***Claim Rejections - 35 USC § 112***

5. Claims 11 and 12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In lines 13-16, the fresh air intake receiving air from exterior to the operator cab and from under the seat is misdescriptive.

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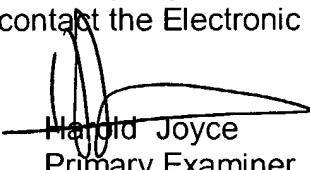
**Response to Arguments**

6. Applicant's arguments filed December 22, 2004 have been fully considered but they are not persuasive. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., Marques et al. has an inlet 14 located well above the seat 19 of the vehicle). While this is true, there is nothing in the rejected claims which would preclude the opening 21 of Marques et al. to also be in communication with the air inlet 14. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Harold Joyce whose telephone number is (703) 308-0274. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ira Lazarus can be reached on (703) 308-1935. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Harold Joyce  
Primary Examiner  
Art Unit 3749